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OFFICE OF PETITIONS

In re Application of
Khosla et al.
Application No. 09/972,809
Filed: October 5, 2001
Attorney Docket No. 07039-322001

DECISION GRANTING PETITION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed August 12, 2004. Patentees request that the initial determination of patent term adjustment be corrected from seventy-two (72) to eighty-two (82) days.

The application for patent term adjustment is **GRANTED**. The Office will adjust the PAIR calculation to reflect that the proper PTA at the time of the mailing of the notice of allowance is eighty-two (82) days.

On May 13, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 72 days. On August 12, 2004, patentees timely¹ submitted an application for patent term adjustment (with required fee). Patentees dispute the reduction of 10 days attributed to applicants for failing to respond within three months to the Notice to File Missing Parts of Application mailed December 14, 2000. Patentees state that they timely responded to the Notice on March 15, 2002.

A review of the application file reveals that applicants' response to the Notice to File Missing Parts of Application mailed January 16, 2002, is of record in the application with a date of receipt by the Office of March 15, 2002. Moreover, the response is complete and proper. As this response was filed within the three-month period under 37 C.F.R. § 1.704(b), there was no applicant delay.

Accordingly, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is eighty-two (82) days.

¹ PALM records show that the Issue Fee payment was also received in the Office on August 12, 2004.

The Office acknowledges submission of the \$200.00 fee set forth in 37 C.F.R. 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publications for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Kery Fries, Senior Legal Advisor, at (571) 272-7757.

*Kery A. Fries
KAF*
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Enclosure: Copy of Adjusted Pair Calculation